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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,123	06/15/2001	David P. Huang	1880	8640

35157 7590 02/06/2004

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EXAMINER

TRAN LIEN, THUY

ART UNIT PAPER NUMBER

1761

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,123

Applicant(s)

HUANG ET AL.

Examiner

Lien T Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The 112 first paragraph rejection of claims 2-4, 6-9, 11-18, 20 and 21 is hereby withdrawn because applicant's argument is found to be persuasive.

The 112 first paragraph rejection of claim 21 is hereby withdrawn because applicant's argument is found to be persuasive.

The indicated allowability of claims 2-21 is withdrawn in view of the newly discovered reference(s) to Mitchell et al and Cremer. Rejections based on the newly cited reference(s) follow.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-12,17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Cremer (4109024).

Cremer discloses a process of making a dough with a binder comprising an a cold-water dispersible starch. Dehydrated potatoes and binder are combined with water to produce a dough. The dough is formed into pieces and fried. The binder gives a better handling properties to the potato pieces; they have greater mechanical strength and can be handled with less breakage between the formation of the piece and frying. The cold-water dispersible starch is made from starch of ordinary amylose content by drying an aqueous slurry or paste on steam-heated rolls or in a spray-dryer. One of the starch that can be used in potato starch that is dried on a drum dryer. (see column 2 lines 35-42, col. 4 lines 25-50 and example 1).

The properties disclosed in 2-4, 8-9, 11-12, 17-18 and 20 are inherent in the Cremer product because the product is a dough which contains an amylose containing starch and the starch is obtained from potato. With respect to the steps of claim 11, Cremer discloses forming a slurry or paste on steam-heated rolls; this cooks and dries the starch. The starch can also be prepared on a drum dryer which cooks and dries the starch slurry. The amylose-containing starch is incorporated into the dough. The pieces prepared from the dough are fried which meet the limitation of claim 7. The dough as set forth in example 1 does not contain any fat; thus, it is a low fat dough which meets the limitation of claim 21.

Claims 8-10, 17-19 rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al.

Mitchell et al disclose a modified starch. The starch is prepared from ungelatinized starch such as potato starch, tapioca starch etc.. The starch is prepared by forming a slurry and the slurry is heated and dried simultaneously in a drum dryer.

The properties claimed are inherent in the Mitchell et al product because the starch is prepared from the same source of starch as claimed and it is prepared by drum drying a slurry which is the same process disclosed in the specification to prepare the claimed starch. The limitation of the starch being used as dough binder or for use in baked or fried food product is an intended use of the product. Since the starch is the same, it is inherent that the starch can have the same intended use.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cremer in view of Mitchell et al.

Mitchell et al discloses a process for preparing a pregelatinized modified starch. The starch is prepared using drum drying. Mitchell et al teach the parameters used to prepare the starch using drum drying and the solid level used in drum drying (see col. 1 line 65 through col. 2 line 1, col. 2 line 60 through col. 3 line 12).

Cremer does not disclose the solvent is water, the pH, the concentration and grinding into particles.

Cremer discloses forming a slurry. It would have been obvious to mix the starch with water to form a slurry because water is commonly used to disperse the starch. As to the pH and concentration, Cremer teaches drum drying is used; it would have been obvious to one skilled in the to use the drum drying parameters as taught by Mitchell et al to prepare the starch to use in the Cremer process. It would also have been obvious to grind the starch as taught by Cremer so that the starch is in the size sufficient to use as binder in the dough.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

February 2, 2004


LIEN TRAN
PRIMARY EXAMINER
